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*NOT ADMITTED IN VA

May 16, 2012

FILED VIA ECFS

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W., Room TW-B204
Washington, D.C. 20554

Re: *Ex Parte* Notification
WC Docket Nos. 11-42, 10-90, 05-337, and 03-109;
CC Docket No. 96-45; WT Docket No. 10-208

Madam Secretary:

Allied Wireless Communications Corporation and Georgia RSA #8 Partnership (collectively, the “Parties”), by counsel, hereby respond briefly to the April 23, 2012 *ex parte* letter filed by T-Mobile USA, Inc. (“T-Mobile”) regarding T-Mobile’s Petition for Reconsideration or Clarification (“Petition for Reconsideration”) of the Commission’s *USF/ICC Transformation Order*.¹ The Parties’ response is being filed in accordance with Section 1.1206 of the Commission’s Rules, 47 C.F.R. § 1.1206. For the reasons set forth in the Parties’ February 9, 2012 Opposition to T-Mobile’s Petition for Reconsideration and in the Parties’ March 26, 2012 *ex parte* letter, and for the reasons set forth below, the Commission should deny T-Mobile’s Petition for Reconsideration.

¹ *Connect America Fund*, WC Docket No. 10-90, *A National Broadband Plan for Our Future*, GN Docket No. 09-51, *Establishing Just and Reasonable Rates for Local Exchange Carriers*, WC Docket No. 07-135, *High-Cost Universal Service Support*, WC Docket No. 05-337, *Developing an Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Lifeline and Link-Up*, WC Docket No. 03-109, *Universal Service Reform – Mobility Fund*, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161, 2011 WL 5844975 (rel. Nov. 18, 2011), 76 Fed. Reg. 73830 (Nov. 29, 2011), 76 Fed. Reg. 78384 (Dec. 16, 2011), 76 Fed. Reg. 81562 (Dec. 28, 2011) (“*USF-ICC Transformation Order*”), *recon.*, FCC 11-189 (rel. Dec. 23, 2011).

T-Mobile Ignores The Clear Language Of The Text In Arguing That Section 54.307(e)(1) of the Rules Is Inconsistent With The Text Regarding Calculation Of The Baseline. In its Petition for Reconsideration, and in its April 23, 2012 *ex parte* letter, T-Mobile asserts that the methodology adopted in Section 54.307(e)(1) of the Rules² for calculating the monthly baseline support of a competitive eligible telecommunications carrier (“CETC”) is inconsistent with the phase-down policy decision in the *USF/ICC Transformation Order*.³

Contrary to T-Mobile’s arguments, revised Section 54.307(e)(1) is fully consistent with the intent and text of the *USF/ICC Transformation Order*, which states in relevant part as follows:

We conclude that each competitive ETC’s baseline support amount will be equal to its total 2011 support in a given study area.... Using a full calendar year of support to set the baseline will provide a reasonable approximation of the amount that competitive ETCs would currently expect to receive, absent reform.⁴

T-Mobile now asserts that “all parties agree that the baseline is based on ‘total 2011 support’ ...; the issue is how the ‘*monthly* support amount’ should be derived from the total 2011 support to fulfill the *[USF/ICC] Transformation Order’s* intent.”⁵ T-Mobile reiterates its assertion that “dividing 2011 support by 12 cannot yield a monthly baseline support amount that ‘will provide a reasonable approximation of the amount that [CETCs] would currently expect to receive, absent reform’”⁶

T-Mobile continues to ignore the critical language in the text of the order: that “[u]sing a full calendar year of support to set the baseline will provide a reasonable approximation of the amount that competitive ETCs would currently expect to receive, absent reform.”⁷ The Commission has clearly defined how best to provide a “reasonable approximation” of support: by using a full calendar year of support. The Parties fail to see how the Commission could have been any clearer in its language or intent. The total amount of support received during the 2011 calendar year must be used to provide the baseline. This is exactly what the Commission has done in adopting Section 54.307(e)(1): it has taken total support for a full calendar year (2011) and divided it by 12 to calculate monthly support. There is no basis whatsoever in the text of *USF/ICC Transformation Order* to support T-Mobile’s assertion that support received during only a portion of 2011 should be annualized.

² 47 C.F.R. § 54.307(e)(1).

³ April 23, 2012 T-Mobile *Ex Parte* at 1 – 3.

⁴ *USF/ICC Transformation Order* at ¶ 515 (emphasis added).

⁵ April 23, 2012 T-Mobile *Ex Parte* at 3 (emphasis in original).

⁶ *Id.*

⁷ *USF/ICC Transformation Order* at ¶ 515 (emphasis added).

T-Mobile Clearly Requires A Waiver To Collect High-Cost Support For The Time Period Prior To The Date On Which The Georgia PSC Certifies That T-Mobile Is An Eligible CETC. T-Mobile insists that no waiver is required in order to have its Georgia ETC designation effective retroactively to the date the order was issued. T-Mobile is just plain wrong.

Section 54.314(d) of the Rules provides that “for an eligible telecommunications carrier to receive high-cost support, the State ... must file an annual certification ... with the ... Commission.”⁸ Section 54.314(d)(6) provides flexibility in the filing deadline for newly designated ETCs, allowing a carrier “to receive support as of the effective date of its designation ... provided that ... the state commission files the certification ... within 60 days of the effective date of the carrier’s designation as an eligible telecommunications carrier.”⁹

The Georgia PSC granted T-Mobile’s designation on February 10, 2012, with a purported effective date of November 17, 2011. Since the grant date was more than 60 days after the retroactive effective date, it would have been impossible for the Georgia PSC to have filed the requisite certification within the 60 day time limit. In fact, a search of WC Docket No. 10-90 shows that no such certification has been filed as of May 15, 2012.¹⁰ Therefore, T-Mobile will be required to seek a waiver of the 60-day filing requirement set forth in Section 54.314(d) of the FCC’s Rules in order to fully effectuate its ETC designation order from the Georgia PSC.

T-Mobile would also have to seek a waiver of Sections 54.307(e)(1)(i) and 54.307(e)(2) in order to fully effectuate its ETC designation order from the Georgia PSC.¹¹ Section 54.307(e)(1)(i) defines “total 2011 support” as “the amount of support disbursed to a competitive eligible telecommunications carrier for 2011 ... as determined by the Administrator on January 31, 2012.”¹² The Administrator (USAC) has already determined the amount of this support (the baseline) to be zero for T-Mobile in Georgia. Likewise, Section 54.307(e)(2) provides that monthly support amounts from January 1, 2012 through June 30, 2016 shall be based on the baseline support amount.¹³

Grant of T-Mobile’s Petition Will Increase USF Support Payments. In their March 26, 2012 *ex parte* letter, the Parties urged the Commission to deny T-Mobile’s Petition for Reconsideration because it would directly contravene the Commission’s overarching policy objective of reducing legacy USF support payments. T-Mobile now concedes that grant of its Petition will increase monthly CETC support payments in Louisiana by \$150,000 per month (which is \$1.8 million per year).¹⁴ Accordingly, the Parties reiterate that grant of the Petition will increase USF support payments, and therefore, contravene the Commission’s goal of reducing such payments.

⁸ 47 C.F.R. § 54.314(d).

⁹ 47 C.F.R. § 54.314(d)(6).

¹⁰ The Rules require that the certification be filed in WC Docket No. 10-90. *See* 47 C.F.R. § 54.314(c).

¹¹ 47 C.F.R. §§ 54.307(e)(1)(i) and 54.307(e)(2).

¹² 47 C.F.R. § 54.307(e)(1)(i).

¹³ 47 C.F.R. § 54.307(e)(2).

¹⁴ April 23, 2012 T-Mobile *Ex Parte* at 3 – 4.

If you have any questions or require any additional information, please contact undersigned counsel directly.

Respectfully submitted,

A handwritten signature in black ink that reads "Robert S. Koppel". The signature is written in a cursive, slightly slanted style.

Todd B. Lantor
Robert S. Koppel

Counsel to: Allied Wireless Communications Corporation
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